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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,803	01/24/2002	Anthony Jabar JR.	099505 /51061	9378

7590 04/17/2006

DAVID S. RESNICK
NIXON & PEABODY, LLP
100 SUMMER STREET
BOSTON, MA 02110-2131

EXAMINER

BAGGOT, BRENDAN O

ART UNIT	PAPER NUMBER
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1638

DATE MAILED: 04/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/056,803

Applicant(s)

JABAR ET AL.

Examiner

Brendan O. Baggot

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8,9 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8,9 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)

DETAILED ACTION

1. Claims 8-9 and 16-20 are pending. Claims 8-9 and 16-20 remain rejected.

This Action is made FINAL.

The text of those section of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

Claims 8-9 and 16-20 remain rejected under 35 U.S.C. §103(a) over McArdle in view of Reddenbaugh. Applicant traverses primarily that McArdle does not teach or suggest a crop seed coating; that the ordinarily skilled artisan would not have been motivated to combine Reddenbaugh with McArdle because Reddenbaugh already teaches the advantage of crop seed coating; the coating of Reddenbaugh is water saturated while the seed coating of present invention is dry; and that there was a 21.8% increase in yield when potato seed pieces are coated with Zein-polysaccharide complex.

Applicant's traversal is unpersuasive. Applicant is reminded that the rejection is a 35 U.S.C. §103 and not a 35 U.S.C. §102 rejection, therefore, each reference DOES NOT have to anticipate each and every claim limitation. McArdle teaches the claimed composition and Reddenbaugh teaches the advantage of coating potato seed pieces. Thus there is motivation to use the composition of McArdle to coat potato seed pieces as taught by Reddenbaugh.

Regarding traversal three, Applicant is again reminded that in a 35 U.S.C. §103 rejection, a single reference DOES NOT have to anticipate each and every claim limitation. Furthermore, the claims don't require that the seed coating be dry.

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The Smith declaration has been carefully considered but is rendered unpersuasive because the declaration is not commensurate in scope with the claims and Applicant is arguing limitations not present in the claims. The unexpected result was obtained using a zein-polysaccharide complex which is not a claim limitation.

Accordingly, this rejection is maintained.

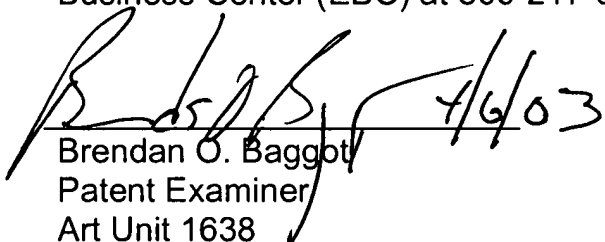
Remarks

2. No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brendan O. Baggot whose telephone number is 571/272-5265. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on 571/272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Brendan O. Baggot
Patent Examiner
Art Unit 1638


PHUONG T. BUI
PRIMARY EXAMINER

PHUONG T. BUI
PRIMARY EXAMINER

bob